

**House File 2298 - Introduced**

HOUSE FILE 2298

BY PEARSON

**A BILL FOR**

1 An Act relating to the prohibition of terminations of pregnancy  
2 and abortions, providing penalties, and including effective  
3 date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.1, unnumbered paragraph 1, Code  
2 2011, is amended to read as follows:

3 For the purposes of chapter 155 and Title IV, subtitle 2,  
4 ~~excluding chapter 146~~, unless otherwise defined:

5 Sec. 2. Section 135.11, subsections 10 and 12, Code  
6 Supplement 2011, are amended to read as follows:

7 10. Enforce the law relative to ~~chapter 146~~ and  
8 "Health-related Professions", Title IV, subtitle 3, excluding  
9 chapter 155.

10 12. Establish, publish, and enforce rules not inconsistent  
11 with law for the enforcement of the provisions of chapters 125  
12 and 155, and Title IV, subtitle 2, ~~excluding chapter 146~~ and  
13 for the enforcement of the various laws, the administration and  
14 supervision of which are imposed upon the department.

15 Sec. 3. Section 144.29A, subsections 1 and 2, Code 2011, are  
16 amended to read as follows:

17 1. A health care provider who initially identifies and  
18 diagnoses a spontaneous termination of pregnancy ~~or who induces~~  
19 ~~a termination of pregnancy~~ shall file with the department  
20 a report for each termination within thirty days of the  
21 occurrence. The health care provider shall make a good faith  
22 effort to obtain all of the following information that is  
23 available with respect to each termination:

24 a. The confidential health care provider code as assigned  
25 by the department.

26 b. The report tracking number.

27 c. The maternal health services region of the Iowa  
28 department of public health, as designated as of July 1, 1997,  
29 in which the patient resides.

30 d. The race of the patient.

31 e. The age of the patient.

32 f. The marital status of the patient.

33 g. The educational level of the patient.

34 h. The number of previous pregnancies, live births, and  
35 spontaneous ~~or induced~~ terminations of pregnancies.

1     *i.* The month and year in which the termination occurred.

2     *j.* The number of weeks since the patient's last menstrual  
3 period and a clinical estimate of gestation.

4     ~~*k.* The method used for an induced termination, including  
5 whether mifepristone was used.~~

6     2. It is the intent of the general assembly that the  
7 information shall be collected, reproduced, released, and  
8 disclosed in a manner specified by rule of the department,  
9 adopted pursuant to chapter 17A, which ensures the anonymity  
10 of the patient who experiences a termination of pregnancy,  
11 the health care provider who identifies and diagnoses ~~or~~  
12 ~~induces~~ a termination of pregnancy, and the hospital, clinic,  
13 or other health facility in which a termination of pregnancy  
14 is identified and diagnosed ~~or induced~~. The department may  
15 share information with federal public health officials for  
16 the purposes of securing federal funding or conducting public  
17 health research. However, in sharing the information, the  
18 department shall not relinquish control of the information,  
19 and any agreement entered into by the department with federal  
20 public health officials to share information shall prohibit the  
21 use, reproduction, release, or disclosure of the information  
22 by federal public health officials in a manner which violates  
23 this section. The department shall publish, annually, a  
24 demographic summary of the information obtained pursuant to  
25 this section, except that the department shall not reproduce,  
26 release, or disclose any information obtained pursuant to this  
27 section which reveals the identity of any patient, health care  
28 provider, hospital, clinic, or other health facility, and shall  
29 ensure anonymity in the following ways:

30     *a.* The department may use information concerning the report  
31 tracking number or concerning the identity of a reporting  
32 health care provider, hospital, clinic, or other health  
33 facility only for purposes of information collection. The  
34 department shall not reproduce, release, or disclose this  
35 information for any purpose other than for use in annually

1 publishing the demographic summary under this section.

2     **b.** The department shall enter the information, from  
3 any report of termination submitted, within thirty days of  
4 receipt of the report, and shall immediately destroy the  
5 report following entry of the information. However, entry of  
6 the information from a report shall not include any health  
7 care provider, hospital, clinic, or other health facility  
8 identification information including, but not limited to, the  
9 confidential health care provider code, as assigned by the  
10 department.

11     **c.** To protect confidentiality, the department shall limit  
12 release of information to release in an aggregate form which  
13 prevents identification of any individual patient, health care  
14 provider, hospital, clinic, or other health facility. For the  
15 purposes of this paragraph, "*aggregate form*" means a compilation  
16 of the information received by the department on termination  
17 of pregnancies for each information item listed, with the  
18 exceptions of the report tracking number, the health care  
19 provider code, and any set of information for which the amount  
20 is so small that the confidentiality of any person to whom the  
21 information relates may be compromised. The department shall  
22 establish a methodology to provide a statistically verifiable  
23 basis for any determination of the correct amount at which  
24 information may be released so that the confidentiality of any  
25 person is not compromised.

26     Sec. 4. Section 144.29A, subsection 8, Code 2011, is amended  
27 by striking the subsection.

28     Sec. 5. Section 216.6, subsection 2, paragraph c, Code 2011,  
29 is amended by striking the paragraph.

30     Sec. 6. Section 216.13, Code 2011, is amended to read as  
31 follows:

32     **216.13 Exceptions for retirement plans, ~~abortion coverage,~~**  
33 **life, disability, and health benefits.**

34     The provisions of this chapter relating to discrimination  
35 because of age do not apply to a retirement plan or benefit

1 system of an employer unless the plan or system is a mere  
2 subterfuge adopted for the purpose of evading this chapter.

3 1. However, a retirement plan or benefit system shall not  
4 require the involuntary retirement of a person under the age of  
5 seventy because of that person's age. This paragraph does not  
6 prohibit the following:

7 a. The involuntary retirement of a person who has attained  
8 the age of sixty-five and has for the two prior years been  
9 employed in a bona fide executive or high policymaking position  
10 and who is entitled to an immediate, nonforfeitable annual  
11 retirement benefit from a pension, profit-sharing, savings,  
12 or deferred compensation plan of the employer which equals  
13 twenty-seven thousand dollars. This retirement benefit test  
14 may be adjusted according to the regulations prescribed by  
15 the United States secretary of labor pursuant to Pub. L. No.  
16 95-256, section 3.

17 b. The involuntary retirement of a person covered by a  
18 collective bargaining agreement which was entered into by a  
19 labor organization and was in effect on September 1, 1977.  
20 This exemption does not apply after the termination of that  
21 agreement or January 1, 1980, whichever first occurs.

22 ~~2. A health insurance program provided by an employer may~~  
23 ~~exclude coverage of abortion, except where the life of the~~  
24 ~~mother would be endangered if the fetus were carried to term or~~  
25 ~~where medical complications have arisen from an abortion.~~

26 ~~3.~~ 2. An employee welfare plan may provide life, disability  
27 or health insurance benefits which vary by age based on  
28 actuarial differences if the employer contributes equally for  
29 all the participating employees or may provide for employer  
30 contributions differing by age if the benefits for all the  
31 participating employees do not vary by age.

32 Sec. 7. Section 602.8102, subsection 31, Code 2011, is  
33 amended by striking the subsection.

34 Sec. 8. Section 707.7, Code 2011, is amended to read as  
35 follows:

1       **707.7 Feticide.**

2       1. Any person who intentionally terminates a human  
3 pregnancy, with the knowledge and voluntary consent of the  
4 pregnant person, ~~after the end of the second trimester of the~~  
5 ~~pregnancy~~ where death of the fetus results, commits feticide.  
6 Feticide is a class "C" "A" felony.

7       2. Any person who attempts to intentionally terminate a  
8 human pregnancy, with the knowledge and voluntary consent of  
9 the pregnant person, ~~after the end of the second trimester of~~  
10 ~~the pregnancy~~ where death of the fetus does not result, commits  
11 attempted feticide. Attempted feticide is a class "D" "B"  
12 felony.

13       3. ~~Any person who terminates a human pregnancy, with the~~  
14 ~~knowledge and voluntary consent of the pregnant person, who~~  
15 ~~is not a person licensed to practice medicine and surgery~~  
16 ~~or osteopathic medicine and surgery under the provisions of~~  
17 ~~chapter 148, commits a class "C" felony. For the purposes of~~  
18 this section, "termination of a human pregnancy" means the use  
19 of any means to terminate the pregnancy of a woman known to be  
20 pregnant with the intent other than to produce a live birth  
21 or to remove a dead fetus. "Termination of a human pregnancy"  
22 does not include a fetal death as defined in section 144.1 or  
23 the spontaneous termination of pregnancy as defined in section  
24 144.29A.

25       4. ~~This section shall not apply to the termination of a~~  
26 ~~human pregnancy performed by a physician licensed in this state~~  
27 ~~to practice medicine or surgery or osteopathic medicine or~~  
28 ~~surgery when in the best clinical judgment of the physician~~  
29 ~~the termination is performed to preserve the life or health~~  
30 ~~of the pregnant person or of the fetus and every reasonable~~  
31 ~~medical effort not inconsistent with preserving the life of the~~  
32 ~~pregnant person is made to preserve the life of a viable fetus.~~  
33 Section 703.1 relating to aiding and abetting and section 703.2  
34 relating to joint criminal conduct shall apply to persons  
35 knowingly participating or concerned in the commission of

1 feticide or attempted feticide under this section.

2 Sec. 9. Section 707.8, Code 2011, is amended to read as  
3 follows:

4 **707.8 Nonconsensual termination — serious injury to a human**  
5 **pregnancy.**

6 1. A person who terminates a human pregnancy without the  
7 consent of the pregnant person during the commission of a  
8 forcible felony is guilty of a class ~~"B"~~ "A" felony.

9 2. A person who terminates a human pregnancy without  
10 the consent of the pregnant person during the commission of  
11 a felony or felonious assault is guilty of a class ~~"C"~~ "B"  
12 felony.

13 3. A person who intentionally terminates a human pregnancy  
14 without the knowledge and voluntary consent of the pregnant  
15 person is guilty of a class ~~"C"~~ "A" felony.

16 4. A person who unintentionally terminates a human  
17 pregnancy by any of the means provided pursuant to section  
18 707.6A, subsection 1, is guilty of a class ~~"C"~~ "B" felony.

19 5. A person who by force or intimidation procures the  
20 consent of the pregnant person to a termination of a human  
21 pregnancy is guilty of a class ~~"C"~~ "B" felony.

22 6. A person who unintentionally terminates a human  
23 pregnancy while drag racing in violation of section 321.278 is  
24 guilty of a class ~~"D"~~ "C" felony.

25 7. A person who unintentionally terminates a human  
26 pregnancy without the knowledge and voluntary consent of the  
27 pregnant person by the commission of an act in a manner likely  
28 to cause the termination of or serious injury to a human  
29 pregnancy is guilty of ~~an aggravated misdemeanor~~ a class "D"  
30 felony.

31 8. A person commits ~~an aggravated misdemeanor~~ a class "D"  
32 felony when the person intentionally causes serious injury  
33 to a human pregnancy by the commission of an act in a manner  
34 likely to cause the termination of or serious injury to a human  
35 pregnancy.

1 9. A person commits ~~an aggravated misdemeanor~~ a class "D"  
2 felony when the person unintentionally causes serious injury  
3 to a human pregnancy by any of the means described in section  
4 707.6A, subsection 1.

5 10. A person commits ~~a serious~~ an aggravated misdemeanor  
6 when the person unintentionally causes serious injury to a  
7 human pregnancy by the commission of an act in a manner likely  
8 to cause the termination of or serious injury to the human  
9 pregnancy.

10 11. For the purposes of this section "*serious injury to*  
11 *a human pregnancy*" means, relative to the human pregnancy,  
12 disabling mental illness, or bodily injury which creates a  
13 substantial risk of death or which causes serious permanent  
14 disfigurement, or protracted loss or impairment of the function  
15 of any bodily member or organ, and includes but is not limited  
16 to skull fractures, rib fractures, and metaphyseal fractures  
17 of the long bones.

18 12. As used in this section, actions which cause the  
19 termination of or serious injury to a pregnancy do not apply  
20 to any of the following:

21 a. An unintentional act or omission of the pregnant person.

22 b. A termination of or a serious injury to a pregnancy  
23 which is caused by the performance of an approved medical  
24 procedure performed by a person licensed in this state to  
25 practice medicine and surgery or osteopathic medicine and  
26 surgery, irrespective of the duration of the pregnancy and  
27 with or without the voluntary consent of the pregnant person  
28 when circumstances preclude the pregnant person from providing  
29 consent.

30 c. An act committed in self-defense or in defense of another  
31 person or any other act committed if legally justified or  
32 excused.

33 Sec. 10. REPEALS.

34 1. Sections 232.5, 707.8A, 707.9, and 707.10, Code 2011,  
35 are repealed.

1 2. Chapters 135L and 146, Code 2011, are repealed.

2 Sec. 11. SEVERABILITY. If any provision of this Act or  
3 the application of this Act to any person or circumstances is  
4 held invalid, the invalidity shall not affect other provisions  
5 or applications of the Act which can be given effect without  
6 the invalid provisions or application and, to this end, the  
7 provisions of this Act are severable.

8 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
9 of immediate importance, takes effect upon enactment.

10 EXPLANATION

11 This bill relates to prohibiting abortions.

12 The bill makes conforming changes throughout the Code to  
13 eliminate any reference to allowing abortions or terminations  
14 of pregnancy. The bill amends the termination of pregnancy  
15 reporting section (Code section 144.29A) to only include the  
16 reporting of spontaneous terminations of pregnancy.

17 The bill amends a Code section relating to unfair employment  
18 practices (Code section 216.6) to eliminate references to  
19 disabilities caused or contributed to by legal abortion.

20 The bill amends a Code section relating to discrimination  
21 relating to health insurance abortion coverage (Code section  
22 216.13) to eliminate the reference to abortion coverage.

23 The bill amends Code section 707.7 (feticide) to provide  
24 for application of the elements of the crime of feticide  
25 at any point in the pregnancy rather than only after the  
26 end of the second trimester. The bill also increases the  
27 penalty from a class "C" felony to a class "A" felony for the  
28 intentional termination of a human pregnancy with the knowledge  
29 and voluntary consent of the pregnant person when the death  
30 of the fetus results. (A class "C" felony is punishable by  
31 confinement for no more than 10 years and a fine of at least  
32 \$1,000 but not more than \$10,000; and a class "A" felony is  
33 punishable by confinement for life without possibility of  
34 parole). The bill also increases the penalty from a class "D"  
35 felony to a class "B" felony for the intentional termination of

1 a human pregnancy with the knowledge and voluntary consent of  
2 the pregnant person when death of the fetus does not result.  
3 (A class "D" felony is punishable by confinement for no more  
4 than five years and a fine of at least \$750 but not more than  
5 \$7,500; and a class "B" felony is punishable by confinement  
6 for no more than 25 years.) The bill also provides that the  
7 offenses of aiding and abetting and joint criminal conduct  
8 apply to commission of a feticide.

9 The bill amends Code section 707.8 (nonconsensual  
10 termination — serious injury to a human pregnancy) to increase  
11 the penalties for each offense. The amendment to the Code  
12 section also exempts an act or omission by the pregnant person  
13 only if the act or omission was unintentional.

14 The bill strikes and repeals Code provisions that relate  
15 to allowing abortions under certain circumstances. The bill  
16 repeals Code section 232.5 (abortion performed on a minor  
17 — waiver of notification proceedings), Code section 707.8A  
18 (partial birth abortion), Code section 707.9 (murder of a fetus  
19 aborted alive), Code section 707.10 (duty to preserve the life  
20 of the fetus), Code chapter 135L (notification requirements  
21 regarding pregnant minors), and Code chapter 146 (abortions —  
22 refusal to perform). The bill also makes conforming changes  
23 to strike references to Code provisions stricken or repealed  
24 in the bill.

25 The bill provides for severability of any provision  
26 or application of the bill that is held invalid from the  
27 provisions or applications of the bill which can be given  
28 effect without the invalid provisions or application. The bill  
29 takes effect upon enactment.